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APPLICATION NO.	FILING DA	TE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/355,149	03/07/200	00	ULF ASSMUS	2345/87	6071
26646	7590 10	/13/2005	EXAMINER		INER
KENYON & ONE BROAD				LEE, MICHAEL	
NEW YORK,		•		ART UNIT	PAPER NUMBER
				2614	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)				
		09/355,149	ASSMUS ET AL.				
	Office Action Summary	Examiner	Art Unit				
		M. Lee	2614				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
2a) <u></u> □	Responsive to communication(s) filed on <u>03 January 2005</u> .  This action is <b>FINAL</b> . 2b) This action is non-final.  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Dispositi	on of Claims						
4)  Claim(s) 1-9 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) is/are allowed.  6)  Claim(s) 1-9 is/are rejected.  7)  Claim(s) is/are objected to.  8)  Claim(s) are subject to restriction and/or election requirement.							
Applicati	on Papers						
<ul> <li>9) The specification is objected to by the Examiner.</li> <li>10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</li> <li>11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</li> </ul>							
Priority u	ınder 35 U.S.C. § 119						
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>							
	e of References Cited (PTO-892)	4) 🔲 Interview Summary	(PTO-413)				
2) Notic 3) Inform	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	Paper No(s)/Mail Da					

#### **DETAILED ACTION**

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## Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1-3, 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Muntz et al. (5,896,427).

Regarding claims 1, 2, 3, Muntz discloses an ATM receiving device (Figure 6) showing a network reference clock (614), and a FIFO memory device (620). The network reference clock is independent of the source data 618.

Regarding claim 5, see col. 6, lines 45-48.

Regarding claim 6, the receiving device in Figure 4, being similar to the one in Figure 6, includes a means for adjusting the received data stream to the clock rate of the clock provided (see timing control stage 404).

Regarding claim 7, see col. 2, lines 65-68.

Regarding claim 8, the network reference clock 414 meets the external normal clock as claimed.

Regarding claim 9, the cell/packet receiver 616 meets the switchover device as claimed.

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## Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muntz et al. (5,896,427).

Regarding claim 4, Muntz does not specify the storage period as claimed. The examiner takes Official Notice that the data FIFO memory 620 in Muntz can be configured to store data in any time period to compensate any transmission delay. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to configure the FIFO memory 620 to delay data in the time period as claimed.

#### Response to Arguments

- 5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
- 6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Lee whose telephone number 571-272-7349. The examiner can normally be reached on Monday through Thursday from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8000.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Lee Primary Examiner Art Unit 2614 Page 4